

HOUSE BILL 573

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

John A. Heaton

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; AMENDING THE
EDUCATIONAL RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY
REQUIREMENTS FOR NEW MEMBERS, TO REQUIRE FINANCIAL TRAINING FOR
BOARD MEMBERS AND TO PROVIDE A LIMIT ON THE CALCULATION OF
AVERAGE ANNUAL SALARY; AMENDING THE PUBLIC EMPLOYEES RETIREMENT
ACT TO CHANGE RETIREMENT ELIGIBILITY REQUIREMENTS FOR NEW
MEMBERS, TO REQUIRE FINANCIAL TRAINING FOR BOARD MEMBERS, TO
PROVIDE A LIMIT ON THE CALCULATION OF FINAL AVERAGE SALARY, TO
ADJUST THE CALCULATION OF SERVICE CREDIT UNDER CERTAIN
RETIREMENT PLANS AND TO CHANGE THE REQUIREMENTS FOR RETURNING
TO WORK AFTER RETIREMENT; AMENDING THE RETIREE HEALTH CARE ACT
TO INCREASE CERTAIN CONTRIBUTION RATES FROM CERTAIN MEMBERS AND
TO REQUIRE ADDITIONAL CONTRIBUTIONS FROM EMPLOYEES WHO HAVE
ACCRUED CERTAIN SERVICE CREDITS; RECONCILING MULTIPLE
AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2003;

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1 RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW
2 BY REPEALING LAWS 2004, CHAPTER 2, SECTION 1.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 Section 1. Section 10-7C-15 NMSA 1978 (being Laws 1990,
6 Chapter 6, Section 15, as amended) is amended to read:

7 "10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

8 A. Following completion of the preliminary
9 contribution period, each participating employer shall make
10 contributions to the fund in the amount of:

11 [~~(1) one percent of each participating~~
12 ~~employee's annual salary for the period July 1, 1990 through~~
13 ~~June 30, 2002; and~~

14 ~~(2) up to~~ (1) one and three-tenths percent
15 of each participating employee's [~~annual salary beginning July~~
16 ~~1, 2002]~~ salary; and

17 (2) an additional three hundred twenty-five
18 thousandths of one percent of the salary paid on or after July
19 1, 2009 to each participating employee who was a member of an
20 enhanced retirement plan on June 30, 2009.

21 Each employer that chooses to become a participating
22 employer after January 1, 1998 shall make contributions to the
23 fund in the amount determined to be appropriate by the board.

24 B. Following completion of the preliminary
25 contribution period, each participating employee, as a

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1 condition of employment, shall contribute to the fund an
2 employee contribution in an amount equal to:

3 ~~[(1) one-half of one percent of the employee's~~
4 ~~salary for the period July 1, 1990 through June 30, 2002; and~~

5 ~~(2) up to sixty-five hundredths of one percent~~
6 ~~beginning July 1, 2002]~~

7 (1) sixty-five hundredths of one percent of
8 the employee's salary; and

9 (2) an additional sixteen hundredths of one
10 percent of the salary paid on or after July 1, 2009 to the
11 employee if the employee was a member of an enhanced retirement
12 plan on June 30, 2009.

13 As a condition of employment, each participating employee
14 of an employer that chooses to become a participating employer
15 after January 1, 1998 shall contribute to the fund an amount
16 that is determined to be appropriate by the board. Each month,
17 participating employers shall deduct the contribution from the
18 participating employee's salary and shall remit it to the board
19 as provided by any procedures that the board may require.

20 C. On or after July 1, 2009, no person shall obtain
21 service credit pursuant to Section 10-11-6, 10-11-7 or 22-11-34
22 NMSA 1978 unless the person makes a contribution to the fund
23 equal to the full actuarial present value of the amount of the
24 increase in the person's health care benefit, as determined by
25 the authority.

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1 ~~[G.]~~ D. Except for contributions made pursuant to
2 Subsection C of this section, a participating employer that
3 fails to remit before the tenth day after the last day of the
4 month all employer and employee deposits required by the
5 Retiree Health Care Act to be remitted by the employer for the
6 month shall pay to the fund, in addition to the deposits,
7 interest on the unpaid amounts at the rate of six percent per
8 year compounded monthly.

9 ~~[D.]~~ E. Except for contributions made pursuant to
10 Subsection C of this section, the employer and employee
11 contributions shall be paid in monthly installments based on
12 the percent of payroll certified by the employer.

13 ~~[E.]~~ F. Except in the case of erroneously made
14 contributions or as may be otherwise provided in Subsection D
15 of Section 10-7C-9 NMSA 1978, contributions from participating
16 employers and participating employees shall become the property
17 of the fund on receipt by the board and shall not be refunded
18 under any circumstances, including termination of employment or
19 termination of the participating employer's operation or
20 participation in the Retiree Health Care Act.

21 ~~[F. Notwithstanding any other provision in the~~
22 ~~Retiree Health Care Act and at the first session of the~~
23 ~~legislature following July 1, 2010, the legislature shall~~
24 ~~review and adjust the distribution pursuant to Section 7-1-6.1~~
25 ~~NMSA 1978 and the employer and employee contributions to the~~

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1 ~~authority in order to ensure the actuarial soundness of the~~
2 ~~benefits provided under the Retiree Health Care Act.]~~

3 G. As used in this section, "member of an enhanced
4 retirement plan" means a member of the public employees
5 retirement association who, pursuant to the Public Employees
6 Retirement Act, is included in:

7 (1) state police member and adult correctional
8 officer member coverage plan 1;

9 (2) municipal police member coverage plan 3, 4
10 or 5;

11 (3) municipal fire member coverage plan 3, 4
12 or 5; or

13 (4) municipal detention officer member
14 coverage plan 1."

15 Section 2. Section 10-11-6 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 6, as amended) is amended to read:

17 "10-11-6. CREDITED SERVICE--CREDIT FOR INTERVENING
18 MILITARY AND UNITED STATES GOVERNMENT SERVICE.--

19 A. A member who leaves the employ of an affiliated
20 public employer to enter a uniformed service of the United
21 States shall be given service credit for periods of service in
22 the uniformed services subject to the following conditions:

23 (1) the member is reemployed by an affiliated
24 public employer within ninety days following termination of the
25 period of intervening ~~[serving]~~ service in the uniformed

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1 service or the affiliated employer certifies in writing to the
2 association that the member is entitled to reemployment rights
3 under the federal Uniformed Services Employment and
4 Reemployment Rights Act of 1994;

5 (2) the member retains membership in the
6 association during the period of service in the uniformed
7 services;

8 (3) free service credit shall not be given for
9 periods of intervening service in the uniformed services
10 following voluntary reenlistment. Service credit for such
11 periods shall be given only after the member pays the
12 association the sum of the contributions that the person would
13 have been required to contribute had the person remained
14 continuously employed throughout the period of intervening
15 service following voluntary reenlistment, which payment shall
16 be made during the period beginning with the date of
17 reemployment and whose duration is three times the period of
18 the person's intervening service in the uniformed services
19 following voluntary reenlistment, not to exceed five years;

20 (4) the member makes a contribution to the
21 retiree health care fund pursuant to Subsection C of Section
22 10-7C-15 NMSA 1978;

23 [~~(4)~~] (5) service credit shall not be given
24 for periods of intervening service in the uniformed services
25 that are used to obtain or increase a benefit from another

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1 state system or the retirement program provided under the
2 Educational Retirement Act; [~~and~~

3 ~~(5)] (6) the member must not have received a
4 discharge or separation from uniformed service under other than
5 honorable conditions; and~~

6 (7) notwithstanding any provision of this plan
7 to the contrary, contributions, benefits and service credit
8 with respect to qualified military service will be provided in
9 accordance with Section 414(u) of the Internal Revenue Code of
10 1986, as amended.

11 B. For a member who is subsequently employed by the
12 government of the United States within thirty days of leaving
13 the employ of an affiliated public employer:

14 (1) that member may continue membership in the
15 association subject to the following conditions:

16 (a) the member has fifteen or more years
17 of credited service;

18 (b) employment by the government of the
19 United States commences within ninety days of termination of
20 employment with the last affiliated public employer;

21 (c) the member files with the
22 association a written application for continued membership
23 within ninety days of termination of employment with the last
24 affiliated public employer; [~~and~~

25 (d) the member remits to the

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1 association, at the times and in the manner prescribed by the
2 association, the member contributions and the employer
3 contributions that would have been made had the member
4 continued in the employ of the last affiliated public employer;
5 and

6 (e) the member makes a contribution to
7 the retiree health care fund pursuant to Subsection C of
8 Section 10-7C-15 NMSA 1978;

9 (2) the contributions required by Paragraph
10 (1) of this subsection shall be based on a salary equal to the
11 member's monthly salary at time of termination of employment
12 with the last affiliated public employer;

13 (3) credited service will be determined as if
14 the employment by the government of the United States was
15 rendered the last affiliated public employer; and

16 (4) the employer contributions remitted by the
17 member shall be credited to the ~~[employer]~~ employer's
18 accumulation fund and shall not be paid out of the association
19 in the event of subsequent cessation of membership."

20 Section 3. Section 10-11-7 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 7, as amended) is amended to read:

22 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

23 A. A member who entered a uniformed service of the
24 United States may purchase service credit for periods of active
25 duty in the uniformed services subject to the following

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1 conditions:

2 (1) the member pays the association the
3 purchase cost determined according to Subsection E of this
4 section;

5 (2) the member has five or more years of
6 service credit acquired as a result of personal service
7 rendered in the employ of an affiliated public employer;

8 (3) the aggregate amount of service credit
9 purchased pursuant to this subsection does not exceed five
10 years reduced by any period of service credit acquired for
11 military service pursuant to any other provision of the Public
12 Employees Retirement Act;

13 (4) service credit may not be purchased for
14 periods of service in the uniformed services that are used to
15 obtain or increase a benefit from another retirement program;
16 [~~and~~]

17 (5) the member must not have received a
18 discharge or separation from uniformed service under other than
19 honorable conditions; and

20 (6) the member makes a contribution to the
21 retiree health care fund pursuant to Subsection C of Section
22 10-7C-15 NMSA 1978.

23 B. A member who was a civilian prisoner of war
24 captured while in service to the United States as an employee
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the
2 period of internment as a civilian prisoner of war, provided
3 that:

4 (1) the member provides proof of employment
5 with the federal government or as a contractor to the federal
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of
8 internment in a form acceptable to the association;

9 (3) the member has at least five years of
10 service credit acquired as a result of personal service
11 rendered in the employ of an affiliated public employer;

12 (4) the aggregate amount of service credit
13 purchased pursuant to this subsection does not exceed five
14 years reduced by any period of service credit acquired for
15 military service pursuant to any other provision of the Public
16 Employees Retirement Act;

17 (5) service credit may not be purchased for
18 periods of service in internment as a civilian prisoner of war
19 if such periods are used to obtain or increase a benefit from
20 another retirement program; ~~and~~

21 (6) the member pays the association the
22 purchase cost determined according to Subsection E of this
23 section; and

24 (7) the member makes a contribution to the
25 retiree health care fund pursuant to Subsection C of Section

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1 10-7C-15 NMSA 1978.

2 C. A member who was employed by a utility company,
3 library, museum, transit company or nonprofit organization
4 administering federally funded public service programs, which
5 utility company, library, museum, transit company or nonprofit
6 organization administering federally funded public service
7 programs or federally funded public service programs
8 administered by a nonprofit organization are subsequently taken
9 over by an affiliated public employer, or a member who was
10 employed by an entity created pursuant to a joint powers
11 agreement between two or more affiliated public employers for
12 the purpose of administering or providing drug or alcohol
13 addiction treatment services irrespective of whether the entity
14 is subsequently taken over by an affiliated public employer,
15 may purchase credited service for the period of employment
16 subject to the following conditions:

17 (1) the member pays the association the
18 purchase cost determined according to Subsection E of this
19 section;

20 (2) the member makes a contribution to the
21 retiree health care fund pursuant to Subsection C of Section
22 10-7C-15 NMSA 1978;

23 ~~(2)~~ (3) the member has five or more years of
24 credited service acquired as a result of personal service
25 rendered in the employ of an affiliated public employer; and

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1 [~~(3)~~] (4) the aggregate amount of credited
2 service purchased pursuant to this subsection does not exceed
3 five years.

4 D. A member who was appointed to participate in a
5 cooperative work study training program established jointly by
6 a state agency and a state post-secondary educational
7 institution may purchase credited service for the period of
8 participation subject to the following conditions:

9 (1) the member pays the association the full
10 actuarial present value of the amount of the increase in the
11 employee's pension as a consequence of the purchase as
12 determined by the association;

13 (2) the member pays the full cost of the
14 purchase within sixty days of the date the member is informed
15 of the amount of the payment;

16 (3) the member makes a contribution to the
17 retiree health care fund pursuant to Subsection C of Section
18 10-7C-15 NMSA 1978;

19 [~~(3)~~] (4) the member has five or more years of
20 credited service acquired as a result of personal service
21 rendered in the employ of an affiliated public employer; and

22 [~~(4)~~] (5) the aggregate amount of credited
23 service purchased pursuant to this subsection does not exceed
24 five years.

25 E. Except for service to be used under a state

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1 legislator coverage plan, the purchase cost for each month of
2 credited service purchased pursuant to the provisions of this
3 section is equal to the member's final average salary
4 multiplied by the sum of the member contribution rate and
5 employer contribution rate, determined in accordance with the
6 coverage plan applicable to the member at the time of the
7 written election to purchase. The purchase cost for each year
8 of credited service to be used under a state legislator
9 coverage plan is equal to three times the normal member
10 contribution per year of credited service under the state
11 legislator coverage plan applicable to the member. Full
12 payment shall be made in a single lump sum within sixty days of
13 the date the member is informed of the amount of the payment.
14 The portion of the purchase cost derived from the employer
15 contribution rate shall be credited to the employer's
16 accumulation fund and shall not be paid out of the association
17 in the event of cessation of membership. In no case shall a
18 member be credited with a month of service for less than the
19 purchase cost as defined in this section.

20 F. A member shall be refunded, upon written request
21 filed with the association, the portion of the purchase cost of
22 credited service purchased pursuant to this section that the
23 association determines to have been unnecessary to provide the
24 member with the maximum pension applicable to the member. The
25 association shall not pay interest on the portion of the

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1 purchase cost refunded to the member.

2 G. A member of the magistrate retirement system who
3 during the member's service as a magistrate was eligible to
4 become a member of the public employees retirement system and
5 elected not to become a member of that system may purchase
6 service credit pursuant to the public employees retirement
7 system for the period for which the magistrate elected not to
8 become a public employees retirement system member, by paying
9 the amount of the increase in the actuarial present value of
10 the magistrate pension as a consequence of the purchase as
11 determined by the association. Full payment shall be made in a
12 single lump-sum amount in accordance with procedures
13 established by the retirement board. Except as provided in
14 Subsection F of this section, seventy-five percent of the
15 purchase cost shall be considered to be employer contributions
16 and shall not be refunded to the member in the event of
17 cessation of membership. The member shall also make a
18 contribution to the retiree health care fund pursuant to
19 Subsection C of Section 10-7C-15 NMSA 1978.

20 H. At any time prior to retirement, any member may
21 purchase service credit in monthly increments, subject to the
22 following conditions:

23 (1) the member has at least five years of
24 service credit acquired as a result of personal service
25 rendered in the employ of an affiliated public employer;

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1 (2) the aggregate amount of service credit
2 purchased pursuant to this subsection does not exceed one
3 year;

4 (3) the member pays full actuarial present
5 value of the amount of the increase in the employee's pension
6 as a consequence of the purchase as determined by the
7 association;

8 (4) the member pays the full cost of the
9 purchase within sixty days of the date the member is informed
10 of the amount of the payment; [~~and~~]

11 (5) the member makes a contribution to the
12 retiree health care fund pursuant to Subsection C of Section
13 10-7C-15 NMSA 1978; and

14 [~~(5)~~] (6) the purchase of service under this
15 subsection cannot be used to determine the final average salary
16 or the pension factor or be used to exceed the pension
17 maximum."

18 Section 4. Section 10-11-8 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 8, as amended by Laws 2004, Chapter 2,
20 Section 1 and by Laws 2004, Chapter 68, Section 4) is amended
21 to read:

22 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
23 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

24 A. A member may retire upon fulfilling the
25 following requirements prior to the selected date of

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1 retirement:

2 (1) a written application for normal
3 retirement, in the form prescribed by the association, is filed
4 with the association;

5 (2) employment is terminated with all
6 employers covered by any state system or the educational
7 retirement system;

8 (3) the member selects an effective date of
9 retirement that is the first day of a calendar month; and

10 (4) the member meets the age and service
11 credit requirement for normal retirement specified in the
12 coverage plan applicable to the member.

13 B. The amount of normal retirement pension is
14 determined in accordance with the coverage plan applicable to
15 the member.

16 C. Except as provided in Subsection D or E of this
17 section, a retired member may be subsequently employed by an
18 affiliated public employer if the following conditions apply:

19 (1) for a retired member who returns to work
20 prior to July 1, 2009 or a retired member who returns to work
21 after that date pursuant to Paragraph (2) of this subsection,
22 the member shall not have been employed as an employee of an
23 affiliated public employer for at least ninety consecutive days
24 from the date of retirement to the commencement of employment
25 or reemployment with an affiliated public employer and, except

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1 as provided in Paragraph (2) of this subsection, for a retired
2 member who returns to employment on or after July 1, 2009, the
3 member ~~[has]~~ shall not have been employed as an employee of an
4 affiliated public employer for at least ~~[ninety consecutive~~
5 ~~days]~~ twelve consecutive months from the date of retirement ~~[to~~
6 ~~the commencement of employment or reemployment with an~~
7 ~~affiliated public employer]~~. If the retired member returns to
8 employment without first completing the required ninety
9 consecutive days or twelve consecutive months of retirement:

10 (a) the retired member's pension shall
11 be suspended immediately and the previously retired member
12 shall become a member; and

13 (b) upon termination of the subsequent
14 employment, the previously retired member's pension shall be
15 calculated pursuant to Paragraph (2) of Subsection E of this
16 section;

17 ~~[(2) effective the first day of the month~~
18 ~~following the month in which the retired member's earnings~~
19 ~~total twenty-five thousand dollars (\$25,000) during a calendar~~
20 ~~year]~~

21 (2) a retired member may return to work after
22 July 1, 2009 without the twelve-month retirement otherwise
23 required by Paragraph (1) of this subsection if the affiliated
24 public employer is a political subdivision of the state whose
25 governing body has adopted a resolution declaring that the

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1 subsequent employment of the retired member will fill a
2 critical need of the political subdivision and the employment
3 is for a term of two years or less; provided, however, that the
4 governing body may renew the employment by passing a resolution
5 declaring a continuing need;

6 (3) a retired member who returns to employment
7 shall be required to make contributions to the fund as
8 specified in the Public Employees Retirement Act; [~~provided,~~
9 ~~however, that after December 31, 2006, no additional~~
10 ~~contributions shall be required pursuant to this paragraph;~~

11 ~~(3)]~~ (4) until the subsequent employment is
12 terminated, the affiliated public employer that employs the
13 retired member shall make contributions to the fund in the
14 amount specified in the Public Employees Retirement Act; [~~or in~~
15 ~~a higher amount adjusted for full actuarial cost as determined~~
16 ~~annually by the association; and]~~

17 ~~(4)]~~ (5) a retired member who returns to
18 employment during retirement pursuant to this subsection is
19 entitled to receive retirement benefits but is not entitled to
20 acquire service credit or to acquire or purchase service credit
21 in the future for the period of the retired member's
22 reemployment with an affiliated public employer; and

23 (6) until the subsequent employment is
24 terminated, both the retired member and the affiliated public
25 employer that employs the retired member shall make

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1 contributions to the retiree health care fund in the amount
2 specified in Subsections A and B of Section 10-7C-15 NMSA 1978.

3 D. The provisions of Paragraphs [~~(2) and~~] (3) and
4 (4) of Subsection C of this section that require employee or
5 employer contributions do not apply to:

6 (1) a retired member who is appointed chief of
7 police of an affiliated public employer, other than the
8 affiliated public employer from which the retired member
9 retired, or who is appointed undersheriff; provided that:

10 (a) the retired member files an
11 irrevocable exemption from membership with the association
12 within thirty days of appointment;

13 (b) each sheriff's office shall be
14 limited to one undersheriff qualifying pursuant to this
15 paragraph;

16 (c) the irrevocable exemption shall be
17 for the chief of police's or the undersheriff's term of office;
18 and

19 (d) filing an irrevocable exemption
20 shall irrevocably bar the retired member from acquiring service
21 credit for the period of exemption from membership; or

22 (2) a retired member employed by the
23 legislature for legislative session work.

24 E. At any time during a retired member's subsequent
25 employment pursuant to Subsection C of this section, the

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1 retired member may elect to suspend the pension. When the
2 pension is suspended, the following conditions shall apply:

3 (1) the retired member who is subsequently
4 employed by an affiliated public employer shall become a
5 member. The previously retired member and the subsequent
6 affiliated public employer shall make the required employee and
7 employer contributions, and the previously retired member shall
8 accrue service credit for the period of subsequent employment;
9 and

10 (2) when a previously retired member
11 terminates the subsequent employment with an affiliated public
12 employer, ~~[he]~~ the previously retired member shall retire
13 according to the provisions of the Public Employees Retirement
14 Act, subject to the following conditions:

15 (a) payment of the pension shall resume
16 in accordance with the provisions of Subsection A of this
17 section;

18 (b) unless the previously retired member
19 accrued at least three years of service credit on account of
20 the subsequent employment, the recalculation of pension shall:
21 1) employ the form of payment selected by the previously
22 retired member at the time of the first retirement; and 2) use
23 the provisions of the coverage plan applicable to the member on
24 the date of the first retirement; and

25 (c) the recalculated pension shall not

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1 be less than the amount of the suspended pension.

2 F. The pension of a member who has three or more
3 years of service credit under each of two or more coverage
4 plans shall be determined in accordance with the coverage plan
5 that produces the highest pension. The pension of a member who
6 has service credit under two or more coverage plans but who has
7 three or more years of service credit under only one of those
8 coverage plans shall be determined in accordance with the
9 coverage plan in which the member has three or more years of
10 service credit. If the service credit is acquired under two
11 different coverage plans applied to the same affiliated public
12 employer as a consequence of an election by the members,
13 adoption by the affiliated public employer or a change in the
14 law that results in the application of a coverage plan with a
15 greater pension, the greater pension shall be paid a member
16 retiring from the affiliated public employer under which the
17 change in coverage plan took place regardless of the amount of
18 service credit under the coverage plan producing the greater
19 pension; provided the member has three or more years of
20 continuous employment with that affiliated public employer
21 immediately preceding or immediately preceding and immediately
22 following the date the coverage plan changed. The provisions
23 of each coverage plan for the purpose of this subsection shall
24 be those in effect at the time the member ceased to be covered
25 by the coverage plan. "Service credit", for the purposes of

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1 this subsection, shall be only personal service rendered an
2 affiliated public employer and credited to the member under the
3 provisions of Subsection A of Section 10-11-4 NMSA 1978.
4 Service credited under any other provision of the Public
5 Employees Retirement Act shall not be used to satisfy the
6 three-year service credit requirement of this subsection."

7 Section 5. Section 10-11-26.2 NMSA 1978 (being Laws 1994,
8 Chapter 128, Section 3) is amended to read:

9 "10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE
10 AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

11 A. Under state general member coverage plan 3:

12 (1) for a member who is a peace officer and
13 for a member who is not a peace officer but was a retired
14 member or a member on June 30, 2009, the age and service credit
15 requirements for normal retirement are:

16 [~~A.~~] (a) age sixty-five years or older
17 and five or more years of service credit;

18 [~~B.~~] (b) age sixty-four years and eight
19 or more years of service credit;

20 [~~C.~~] (c) age sixty-three years and
21 eleven or more years of service credit;

22 [~~D.~~] (d) age sixty-two years and
23 fourteen or more years of service credit;

24 [~~E.~~] (e) age sixty-one years and
25 seventeen or more years of service credit;

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1 ~~[F-]~~ (f) age sixty years and twenty or
2 more years of service credit; and

3 ~~[G-]~~ (g) any age and twenty-five or more
4 years of service credit; and

5 (2) for a member who is not a peace officer
6 and was not a retired member or a member on June 30, 2009, the
7 age and service requirements for normal retirement are:

8 (a) age sixty-seven years or older and
9 five or more years of service credit;

10 (b) age sixty-six years and seven or
11 more years of service credit;

12 (c) age sixty-five years and eight or
13 more years of service credit;

14 (d) age sixty-four years and ten or more
15 years of service credit;

16 (e) age sixty-three years and thirteen
17 or more years of service credit;

18 (f) age sixty-two years and sixteen or
19 more years of service credit;

20 (g) age sixty-one years and nineteen or
21 more years of service credit;

22 (h) age sixty years and twenty or more
23 years of service credit; or

24 (i) age fifty-five years or older and
25 thirty or more years of service credit.

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1 B. As used in this section, "peace officer" means
2 any employee of the state with a duty to maintain public order
3 or to make arrests for crime, whether that duty extends to all
4 crimes or is limited to specific crimes, and who is not
5 specifically covered by another coverage plan."

6 Section 6. Section 10-11-27 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
8 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
9 to read:

10 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
11 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

12 A. State police member and adult correctional
13 officer member coverage plan 1 is applicable to state police
14 members who are not specifically covered by another coverage
15 plan and to adult correctional officer members. [~~The credited~~
16 ~~service of a state police member who has held the permanent~~
17 ~~rank of patrolman, sergeant, lieutenant or captain and does not~~
18 ~~hold an exempt rank or who is assigned to the aircraft division~~
19 ~~as a pilot, or of an adult correctional officer member, shall~~
20 ~~have actual credited service increased by twenty percent]~~ For
21 the purposes of state police member and adult correctional
22 officer member coverage plan 1, a member shall have actual
23 credited service increased by twenty percent if that member was
24 a retired member or a member on June 30, 2009 and:

25 (1) is a state police member who holds the

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1 permanent rank of patrolman, sergeant, lieutenant or captain
2 and does not hold an exempt rank;

3 (2) is a state police member who is assigned
4 to the aircraft division as a pilot; or

5 (3) is an adult correctional officer member.

6 B. The increased credited service provided in
7 Subsection A of this section may be used only for the purposes
8 of state police member and adult correctional officer member
9 coverage plan 1, and, if a member transfers or otherwise
10 becomes subject to another coverage plan, only the actual
11 credited service, rather than the increased credited service,
12 may be used to determine retirement eligibility under that
13 other plan.

14 ~~[B.]~~ C. State police member and adult correctional
15 officer member coverage plan 1 is applicable to adult
16 correctional officer members in the first full pay period after
17 July 1, 2004 if the retirement board certifies to the secretary
18 of state that, of those adult correctional officer members to
19 be covered under state police member and adult correctional
20 officer member coverage plan 1, a majority of the members
21 voting have voted to approve adoption of that plan at an
22 election conducted pursuant to [~~Section 16 of this 2003 act~~]
23 Laws 2003, Chapter 268, Section 16."

24 Section 7. Section 10-11-45 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 45) is amended to read:

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1 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE
2 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
3 municipal general member coverage plan 1:

4 A. for a member who was a retired member or a
5 member on June 30, 2009, the age and service requirements for
6 normal retirement are:

7 [~~A.~~] (1) age sixty-five years or older and
8 five or more years of credited service;

9 [~~B.~~] (2) age sixty-four years and eight or
10 more years of credited service;

11 [~~C.~~] (3) age sixty-three years and eleven or
12 more years of credited service;

13 [~~D.~~] (4) age sixty-two years and fourteen or
14 more years of credited service;

15 [~~E.~~] (5) age sixty-one years and seventeen or
16 more years of credited service;

17 [~~F.~~] (6) age sixty years and twenty or more
18 years of credited service; or

19 [~~G.~~] (7) any age and twenty-five or more years
20 of credited service; and

21 B. for a member who was not a retired member or a
22 member on June 30, 2009, the age and service requirements for
23 normal retirement are:

24 (1) age sixty-seven years or older and five or
25 more years of service credit;

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- 1 (2) age sixty-six years and seven or more
2 years of service credit;
- 3 (3) age sixty-five years and eight or more
4 years of service credit;
- 5 (4) age sixty-four years and ten or more years
6 of service credit;
- 7 (5) age sixty-three years and thirteen or more
8 years of service credit;
- 9 (6) age sixty-two years and sixteen or more
10 years of service credit;
- 11 (7) age sixty-one years and nineteen or more
12 years of service credit;
- 13 (8) age sixty years and twenty or more years
14 of service credit; or
- 15 (9) age fifty-five years or older and thirty
16 or more years of service credit."

17 Section 8. Section 10-11-51 NMSA 1978 (being Laws 1987,
18 Chapter 253, Section 51) is amended to read:

19 "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE
20 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
21 municipal general member coverage plan 2:

22 A. for a member who was a retired member or a
23 member on June 30, 2009, the age and service requirements for
24 normal retirement are:

25 ~~[A.]~~ (1) age sixty-five years or older and

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1 five or more years of credited service;

2 [~~B.~~] (2) age sixty-four years and eight or
3 more years of credited service;

4 [~~C.~~] (3) age sixty-three years and eleven or
5 more years of credited service;

6 [~~D.~~] (4) age sixty-two years and fourteen or
7 more years of credited service;

8 [~~E.~~] (5) age sixty-one years and seventeen or
9 more years of credited service;

10 [~~F.~~] (6) age sixty years and twenty or more
11 years of credited service; or

12 [~~G.~~] (7) any age and twenty-five or more years
13 of credited service; and

14 B. for a member who was not a retired member or a
15 member on June 30, 2009, the age and service requirements for
16 normal retirement are:

17 (1) age sixty-seven years or older and five or
18 more years of service credit;

19 (2) age sixty-six years and seven or more
20 years of service credit;

21 (3) age sixty-five years and eight or more
22 years of service credit;

23 (4) age sixty-four years and ten or more years
24 of service credit;

25 (5) age sixty-three years and thirteen or more

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1 years of service credit;

2 (6) age sixty-two years and sixteen or more
3 years of service credit;

4 (7) age sixty-one years and nineteen or more
5 years of service credit;

6 (8) age sixty years and twenty or more years
7 of service credit; or

8 (9) age fifty-five years or older and thirty
9 or more years of service credit."

10 Section 9. Section 10-11-55.2 NMSA 1978 (being Laws 1993,
11 Chapter 58, Section 2) is amended to read:

12 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
13 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
14 municipal general member coverage plan 3:

15 A. for a member who was a retired member or a
16 member on June 30, 2009, the age and service requirements for
17 normal retirement are:

18 [~~A.~~] (1) age sixty-five years or older and
19 five or more years of credited service;

20 [~~B.~~] (2) age sixty-four years and eight or
21 more years of credited service;

22 [~~C.~~] (3) age sixty-three years and eleven or
23 more years of credited service;

24 [~~D.~~] (4) age sixty-two years and fourteen or
25 more years of credited service;

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1 ~~[E-]~~ (5) age sixty-one years and seventeen or
2 more years of credited service;

3 ~~[F-]~~ (6) age sixty years and twenty or more
4 years of credited service; or

5 ~~[G-]~~ (7) any age and twenty-five or more years
6 of credited service; and

7 B. for a member who was not a retired member or a
8 member on June 30, 2009, the age and service requirements for
9 normal retirement are:

10 (1) age sixty-seven years or older and five or
11 more years of service credit;

12 (2) age sixty-six years and seven or more
13 years of service credit;

14 (3) age sixty-five years and eight or more
15 years of service credit;

16 (4) age sixty-four years and ten or more years
17 of service credit;

18 (5) age sixty-three years and thirteen or more
19 years of service credit;

20 (6) age sixty-two years and sixteen or more
21 years of service credit;

22 (7) age sixty-one years and nineteen or more
23 years of service credit;

24 (8) age sixty years and twenty or more years
25 of service credit; or

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1 (9) age fifty-five years or older and thirty
2 or more years of service credit."

3 Section 10. Section 10-11-55.8 NMSA 1978 (being Laws
4 1998, Chapter 106, Section 2) is amended to read:

5 "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
6 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
7 municipal general member coverage plan 4:

8 A. for a member who was a retired member or a
9 member on June 30, 2009, the age and service requirements for
10 normal retirement are:

11 ~~[A.]~~ (1) age sixty-five years or older and
12 five or more years of credited service;

13 ~~[B.]~~ (2) age sixty-four years and eight or
14 more years of credited service;

15 ~~[C.]~~ (3) age sixty-three years and eleven or
16 more years of credited service;

17 ~~[D.]~~ (4) age sixty-two years and fourteen or
18 more years of credited service;

19 ~~[E.]~~ (5) age sixty-one years and seventeen or
20 more years of credited service;

21 ~~[F.]~~ (6) age sixty years and twenty or more
22 years of credited service; or

23 ~~[G.]~~ (7) any age and twenty-five or more years
24 of credited service; and

25 B. for a member who was not a retired member or a

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1 member on June 30, 2009, the age and service requirements for
2 normal retirement are:

3 (1) age sixty-seven years or older and five or
4 more years of service credit;

5 (2) age sixty-six years and seven or more
6 years of service credit;

7 (3) age sixty-five years and eight or more
8 years of service credit;

9 (4) age sixty-four years and ten or more years
10 of service credit;

11 (5) age sixty-three years and thirteen or more
12 years of service credit;

13 (6) age sixty-two years and sixteen or more
14 years of service credit;

15 (7) age sixty-one years and nineteen or more
16 years of service credit;

17 (8) age sixty years and twenty or more years
18 of service credit; or

19 (9) age fifty-five years or older and thirty
20 or more years of service credit."

21 Section 11. Section 10-11-69 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 69) is amended to read:

23 "10-11-69. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AGE
24 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under

25 municipal police member coverage plan 3, the age and service
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1 requirements for normal retirement are:

2 A. age sixty-five years or older and five or more
3 years of credited service;

4 B. age sixty-four years and eight or more years of
5 credited service;

6 C. age sixty-three years and eleven or more years
7 of credited service;

8 D. age sixty-two years and fourteen or more years
9 of credited service;

10 E. age sixty-one years and seventeen or more years
11 of credited service; [øf]

12 F. any age and twenty or more years of credited
13 service for an individual who was a retired member or a member
14 on June 30, 2009; or

15 G. any age and twenty-five or more years of
16 credited service for an individual who was not a retired member
17 or a member on June 30, 2009."

18 Section 12. Section 10-11-75 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 75) is amended to read:

20 "10-11-75. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AGE
21 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
22 municipal police member coverage plan 4, the age and service
23 requirements for normal retirement are:

24 A. age sixty-five years or older and five or more
25 years of credited service;

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1 B. age sixty-four years and eight or more years of
2 credited service;

3 C. age sixty-three years and eleven or more years
4 of credited service;

5 D. age sixty-two years and fourteen or more years
6 of credited service;

7 E. age sixty-one years and seventeen or more years
8 of credited service; [øf]

9 F. any age and twenty or more years of credited
10 service for an individual who was a retired member or a member
11 on June 30, 2009; or

12 G. any age and twenty-five or more years of
13 credited service for an individual who was not a retired member
14 or a member on June 30, 2009."

15 Section 13. Section 10-11-81 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 81) is amended to read:

17 "10-11-81. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AGE
18 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
19 municipal police member coverage plan 5, the age and service
20 requirements for normal retirement are:

21 A. age sixty-five years or older and five or more
22 years of credited service;

23 B. age sixty-four years and eight or more years of
24 credited service;

25 C. age sixty-three years and eleven or more years

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1 of credited service;

2 D. age sixty-two years and fourteen or more years
3 of credited service;

4 E. age sixty-one years and seventeen or more years
5 of credited service; [ø]

6 F. any age and twenty or more years of credited
7 service for an individual who was a retired member or a member
8 on June 30, 2009; or

9 G. any age and twenty-five or more years of
10 credited service for an individual who was not a retired member
11 or a member on June 30, 2009."

12 Section 14. Section 10-11-99 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 99) is amended to read:

14 "10-11-99. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AGE AND
15 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal
16 fire member coverage plan 3, the age and service requirements
17 for normal retirement are:

18 A. age sixty-five years or older and five or more
19 years of credited service;

20 B. age sixty-four years and eight or more years of
21 credited service;

22 C. age sixty-three years and eleven or more years
23 of credited service;

24 D. age sixty-two years and fourteen or more years
25 of credited service;

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1 E. age sixty-one years and seventeen or more years
2 of credited service; [~~or~~]

3 F. any age and twenty or more years of credited
4 service for an individual who was a retired member or a
5 member on June 30, 2009; or

6 G. any age and twenty-five or more years of
7 credited service for an individual who was not a retired
8 member or a member on June 30, 2009."

9 Section 15. Section 10-11-105 NMSA 1978 (being Laws
10 1987, Chapter 253, Section 105) is amended to read:

11 "10-11-105. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AGE
12 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
13 municipal fire member coverage plan 4, the age and service
14 requirements for normal retirement are:

15 A. age sixty-five years or older and five or more
16 years of credited service;

17 B. age sixty-four years and eight or more years
18 of credited service;

19 C. age sixty-three years and eleven or more years
20 of credited service;

21 D. age sixty-two years and fourteen or more years
22 of credited service;

23 E. age sixty-one years and seventeen or more
24 years of credited service; [~~or~~]

25 F. any age and twenty or more years of credited

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1 service for an individual who was a retired member or a
2 member on June 30, 2009; or

3 G. any age and twenty-five or more years of
4 credited service for an individual who was not a retired
5 member or a member on June 30, 2009."

6 Section 16. Section 10-11-111 NMSA 1978 (being Laws
7 1987, Chapter 253, Section 111) is amended to read:

8 "10-11-111. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AGE
9 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
10 municipal fire member coverage plan 5, the age and service
11 requirements for normal retirement are:

12 A. age sixty-five years or older and five or more
13 years of credited service;

14 B. age sixty-four years and eight or more years
15 of credited service;

16 C. age sixty-three years and eleven or more years
17 of credited service;

18 D. age sixty-two years and fourteen or more years
19 of credited service;

20 E. age sixty-one years and seventeen or more
21 years of credited service; [~~or~~]

22 F. any age and twenty or more years of credited
23 service for an individual who was a retired member or a
24 member on June 30, 2009; or

25 G. any age and twenty-five or more years of

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1 credited service for an individual who was not a retired
2 member or a member on June 30, 2009."

3 Section 17. Section 10-11-115.2 NMSA 1978 (being Laws
4 2003, Chapter 268, Section 3) is amended to read:

5 "10-11-115.2. MUNICIPAL DETENTION OFFICER MEMBER
6 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL
7 RETIREMENT--CALCULATION OF CREDITED SERVICE.--

8 A. Under municipal detention officer member
9 coverage plan 1, the age and service requirements for normal
10 retirement are:

11 (1) age sixty-five years or older and five
12 or more years of credited service;

13 (2) age sixty-four years and eight or more
14 years of credited service;

15 (3) age sixty-three years and eleven or more
16 years of credited service;

17 (4) age sixty-two years and fourteen or more
18 years of credited service;

19 (5) age sixty-one years and seventeen or
20 more years of credited service;

21 (6) age sixty years and twenty or more years
22 of credited service; or

23 (7) any age and twenty-five or more years of
24 credited service.

25 B. In calculating credited service for the

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1 purposes of determining retirement eligibility and amount of
2 pension, the credited service of a municipal detention
3 officer member who was a retired member or a member on June
4 30, 2009 shall have actual credited service increased by
5 twenty percent only for the purposes of municipal detention
6 officer member coverage plan 1, and, if a member transfers or
7 otherwise becomes subject to another coverage plan, only the
8 actual credited service, rather than the increased credited
9 service, may be used to determine retirement eligibility
10 under that other plan."

11 Section 18. Section 10-11-133 NMSA 1978 (being Laws
12 1987, Chapter 253, Section 133, as amended) is amended to
13 read:

14 "10-11-133. INVESTMENT OF FUNDS--PRUDENT INVESTOR
15 STANDARD--CONDITIONS.--

16 A. Commissions paid for the purchase and sale of
17 any security shall not exceed brokerage rates prescribed and
18 approved by stock exchanges that have been approved by or are
19 under the control of the United States securities and
20 exchange commission or by industry practice.

21 B. The retirement board shall invest and manage
22 the funds administered by the retirement board in accordance
23 with the Uniform Prudent Investor Act.

24 C. The retirement board shall provide quarterly
25 performance reports to the legislative finance committee and

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1 the department of finance and administration. Annually, the
2 retirement board shall ratify and provide its written
3 investment policy, including any amendments, to the legislative
4 finance committee and the department of finance and
5 administration.

6 D. Securities purchased with money from or held for
7 any fund administered by the retirement board and for which the
8 retirement board is trustee shall be in the custody of the
9 state treasurer who shall, at the direction of the retirement
10 board, deposit with a bank or trust company the securities for
11 safekeeping or servicing.

12 E. The retirement board may consult with the state
13 investment council or state investment officer and request
14 information or advice with respect to the retirement board's
15 overall investment plan, may utilize the services of the state
16 investment council and state investment officer and may act on
17 their advice concerning the plan. The state investment council
18 and state investment officer shall render investment services
19 to the retirement board without expense to the retirement
20 board. The retirement board may also employ the investment
21 management services and related management services of a trust
22 company or national bank exercising trust powers or of an
23 investment counseling firm or brokers for the purchase and sale
24 of securities, commission recapture and transitioning services
25 and may pay reasonable compensation for such services from

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1 funds administered by the retirement board. The terms of any
2 such investment management services contract shall incorporate
3 the statutory requirements for investment of funds under the
4 retirement board's jurisdiction.

5 F. The retirement board shall annually provide for
6 its members no less than eight hours of training in pension
7 fund investing, fiduciary obligations or ethics. A member
8 elected to the retirement board who fails to attend the
9 training for two consecutive years shall be deemed to have
10 resigned from the retirement board.

11 [~~F-~~] G. Except as provided in the Public Employees
12 Retirement Act, a member of the retirement board, employee of
13 the retirement board or any person connected with the
14 retirement board in any manner shall not:

15 (1) have any direct or indirect interest in
16 the gains or profits of any investment made by the retirement
17 board;

18 (2) receive any direct or indirect pay or
19 emolument for services provided to the retirement board or the
20 association;

21 (3) directly or indirectly, for the member,
22 employee or person, for themselves or as agent or partner of
23 others, borrow any of the funds or deposits of the association
24 or in any manner use them except to make current and necessary
25 payments authorized by the retirement board; or

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underscored material = new
[bracketed material] = delete

1 (4) become an endorser or surety or become in
2 any manner an obligor for money of the retirement board loaned
3 or borrowed."

4 Section 19. A new section of the Public Employees
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] CALCULATION OF FINAL AVERAGE SALARY.--
7 Under each coverage plan of the Public Employees Retirement
8 Act, the final average salary is one thirty-sixth of the
9 greatest aggregate amount of salary paid a member for three
10 consecutive years of credited service; provided, however, if
11 the salary paid in any year beginning on or after July 1, 2009
12 exceeds that of the previous year by more than fifteen percent:

13 A. the amount in excess of fifteen percent shall be
14 excluded in the computation of final average salary; and

15 B. the salary, as adjusted to exclude any increase
16 of the fifteen percent limitation, shall be used to determine
17 if the salary paid in the subsequent year exceeds the fifteen
18 percent limitation."

19 Section 20. Section 22-11-13 NMSA 1978 (being Laws 1967,
20 Chapter 16, Section 137, as amended) is amended to read:

21 "22-11-13. BOARD AUTHORITY TO INVEST THE FUND--PRUDENT
22 INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

23 A. The board is authorized to invest or reinvest
24 the fund in accordance with the Uniform Prudent Investor Act.

25 B. The board shall provide quarterly performance
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underscoring material = new
[bracketed material] = delete

1 reports to the legislative finance committee and the department
2 of finance and administration. Annually, the board shall
3 ratify and provide its written investment policy, including any
4 amendments, to the legislative finance committee and the
5 department of finance and administration.

6 C. The board or its designated agent may enter into
7 contracts for the temporary exchange of securities for the use
8 by broker-dealers, banks or other recognized institutional
9 investors, for periods not to exceed one year, for a specified
10 fee or consideration. Such a contract shall not be entered
11 into unless the contract is fully secured by a collateralized,
12 irrevocable letter of credit running to the board, cash or
13 equivalent collateral of at least one hundred two percent of
14 the market value of the securities plus accrued interest
15 temporarily exchanged. This collateral shall be delivered to
16 the state fiscal agent or its designee contemporaneously with
17 the transfer of funds or delivery of the securities. Such
18 contract may authorize the board to invest cash collateral in
19 instruments or securities that are authorized fund investments
20 and may authorize payment of a fee from the fund or from income
21 generated by the investment of cash collateral to the borrower
22 of securities providing cash as collateral. The board may
23 apportion income derived from the investment of cash collateral
24 to pay its agent in securities lending transactions.

25 D. Commissions paid for the purchase or sale of any

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underscoring material = new
[bracketed material] = delete

1 securities pursuant to the provisions of the Educational
2 Retirement Act shall not exceed brokerage rates prescribed and
3 approved by national stock exchanges or by industry practice.

4 E. Securities purchased for the fund shall be held
5 in the custody of the state treasurer. At the direction of the
6 board, the state treasurer shall deposit with a bank or trust
7 company the securities for safekeeping or servicing.

8 F. The board may consult with the state investment
9 council or the state investment officer; may request from the
10 state investment council or the state investment officer any
11 information, advice or recommendations with respect to
12 investment of the fund; may utilize the services of the state
13 investment council or the state investment officer; and may act
14 upon any advice or recommendations of the state investment
15 council or the state investment officer. The state investment
16 council or the state investment officer shall render investment
17 advisory services to the board upon request and without expense
18 to the board. The board may also employ the investment
19 management services and related management services of a trust
20 company or national bank exercising trust powers or of an
21 investment counseling firm or brokers for the purchase and sale
22 of securities, commission recapture and transition services
23 and may pay reasonable compensation for those services from
24 funds administered by the board.

25 G. The board shall annually provide for its members

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underscored material = new
[bracketed material] = delete

1 no less than eight hours of training in pension fund investing,
2 fiduciary obligations or ethics. A member elected or appointed
3 to the board who fails to attend the training for two
4 consecutive years shall be deemed to have resigned from the
5 board.

6 [G.] H. Members of the board, jointly and
7 individually, shall be indemnified from the fund by the state
8 from all claims, demands, suits, actions, damages, judgments,
9 costs, charges and expenses, including court costs and attorney
10 fees, and against all liability, losses and damages of any
11 nature whatsoever that members shall or may at any time sustain
12 by reason of any decision made in the performance of their
13 duties pursuant to this section."

14 Section 21. Section 22-11-23 NMSA 1978 (being Laws 1981,
15 Chapter 293, Section 2, as amended) is amended to read:

16 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
17 PRIOR TO JULY 1, 2009.--

18 A. [~~On and after July 1, 1984~~] The retirement
19 eligibility for a member who either was a member on June 30,
20 2009, or was a member at any time prior to that date and had
21 not, on that date, been refunded all member contributions
22 pursuant to Subsection A of Section 22-11-15 NMSA 1978, is as
23 follows:

24 (1) a member shall be eligible for retirement
25 benefits pursuant to the Educational Retirement Act when either

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1 of the following conditions occurs:

2 (a) the sum of the member's age and
3 years of earned service-credit equals seventy-five; or

4 (b) upon completion of five years of
5 earned service-credit and upon becoming sixty-five years of
6 age;

7 (2) a member under sixty years of age eligible
8 to retire under Paragraph (1) of this subsection may retire and
9 receive retirement benefits pursuant to the Educational
10 Retirement Act that ~~[he]~~ the member would be eligible to
11 receive if ~~[he]~~ the member were to retire at the age of sixty
12 years reduced by six-tenths of one percent for each one-fourth,
13 or portion thereof, year that retirement occurs prior to the
14 member's sixtieth ~~[birthdate]~~ birthday but after the fifty-
15 fifth ~~[birthdate]~~ birthday, and one and eight-tenths percent
16 for each one-fourth, or portion thereof, year that retirement
17 occurs prior to age fifty-five; or

18 (3) a member under sixty years of age
19 acquiring twenty-five or more years of earned and allowed
20 service credit may retire and receive retirement benefits
21 pursuant to the Educational Retirement Act computed on the same
22 basis as if the member were sixty years of age.

23 B. A member shall be subject to the provisions of
24 Paragraphs (2) and (3) of Subsection A of this section as they
25 existed at the beginning of ~~[his]~~ the member's last cumulated

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1 four quarters of earned service-credit, regardless of later
2 amendment."

3 Section 22. A new section of the Educational Retirement
4 Act, Section 22-11-23.1 NMSA 1978, is enacted to read:

5 "22-11-23.1. [NEW MATERIAL] RETIREMENT ELIGIBILITY--
6 INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2009.--A member who
7 initially became a member on or after July 1, 2009 or a member
8 who was a member at any time prior to that date and had, before
9 that date, been refunded all member contributions pursuant to
10 Subsection A of Section 22-11-15 NMSA 1978, shall be eligible
11 for retirement benefits pursuant to the Educational Retirement
12 Act when one of the following conditions occurs:

13 A. the member is at least fifty-five years of age
14 and has thirty or more years of earned service credit;

15 B. the member is at least sixty-seven years of age
16 and has five or more years of earned service credit; or

17 C. the sum of the member's age and years of earned
18 service credit equals at least eighty."

19 Section 23. Section 22-11-25.1 NMSA 1978 (being Laws
20 2001, Chapter 283, Section 2, as amended by Laws 2003, Chapter
21 80, Section 1 and by Laws 2003, Chapter 145, Section 1) is
22 amended to read:

23 "22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS CONTINUED--
24 ADMINISTRATIVE UNIT CONTRIBUTIONS.--

25 A. Except as provided in Subsections B and E of

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1 this section, beginning January 1, 2002 and continuing until
2 January 1, 2012, a retired member may begin employment at a
3 local administrative unit and shall not be required to suspend
4 retirement benefits if the member has not been employed as an
5 employee or independent contractor by a local administrative
6 unit for at least twelve consecutive months from the date of
7 retirement to the commencement of employment or reemployment
8 with a local administrative unit. If the retired member
9 returns to employment without first completing twelve
10 consecutive months of retirement, the retired member shall
11 remove himself or herself from retirement.

12 B. A retired member who was retired on or before
13 January 1, 2001, has not since suspended or been required to
14 suspend retirement benefits pursuant to the Educational
15 Retirement Act and is reemployed by a local administrative unit
16 may continue employment at the local administrative unit and
17 shall not be required to suspend retirement benefits.

18 C. A retired member who returns to employment
19 during retirement pursuant to Subsection A or B of this section
20 is entitled to continue to receive retirement benefits but is
21 not entitled to acquire service credit or to acquire or
22 purchase service credit in the future for the period of the
23 retired member's reemployment with a local administrative unit.

24 D. A retired member who returns to employment
25 pursuant to [~~Subsections~~] Subsection A or B of this section

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1 shall not make contributions to the fund as specified in the
2 Educational Retirement Act; however, the local administrative
3 unit's contributions as specified in that act shall be paid to
4 the fund as if the retired member was a non-retired employee.

5 E. Beginning July 1, 2003 and continuing until
6 January 1, 2012, a retired member who retired on or before
7 January 1, 2001 and who has not been employed as an employee or
8 independent contractor by a local administrative unit for at
9 least ninety days may begin employment at a local
10 administrative unit without suspending retirement benefits if
11 the retired member was not employed by a local administrative
12 unit for an additional twelve or more consecutive months after
13 the initial date of the retirement; provided that the ninety-
14 day period shall not include any part of a summer or other
15 scheduled break or vacation period.

16 F. Both the retired member who returns to
17 employment and the local administrative unit that employs the
18 retired member shall make contributions to the retiree health
19 care fund in the amount specified in Subsections A and B of
20 Section 10-7C-15 NMSA 1978."

21 Section 24. Section 22-11-30 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 153, as amended) is amended to read:

23 "22-11-30. RETIREMENT BENEFITS.--

24 A. Retirement benefits for a member retired
25 pursuant to the Educational Retirement Act on or before

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1 June 30, 1967 shall be paid monthly and shall be one-twelfth of
2 a sum equal to one and one-half percent of the first four
3 thousand dollars (\$4,000) of the member's average annual salary
4 and one percent of the remainder of the member's average annual
5 salary multiplied by the number of years of the member's total
6 service credit.

7 B. Retirement benefits for a member retired
8 pursuant to the Educational Retirement Act on or after July 1,
9 1967 but on or before June 30, 1971 shall be paid monthly and
10 shall be one-twelfth of a sum equal to one and one-half percent
11 of the first six thousand six hundred dollars (\$6,600) of the
12 member's average annual salary and one percent of the remainder
13 of the member's average annual salary multiplied by the number
14 of years of the member's total service credit.

15 C. Retirement benefits for a member retired
16 pursuant to the Educational Retirement Act on or after July 1,
17 1971 but on or before June 30, 1974 shall be paid monthly and
18 shall be one-twelfth of a sum equal to one and one-half percent
19 of the member's average annual salary multiplied by the number
20 of years of the member's total service credit.

21 D. Retirement benefits for a member retired
22 pursuant to the Educational Retirement Act on or before
23 June 30, 1974 but returning to employment on or after July 1,
24 1974 for a cumulation of one or more years shall be computed
25 pursuant to Subsection E of this section. Retirement benefits

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1 for a member retired pursuant to the Educational Retirement Act
2 on or before June 30, 1974 but returning to employment on or
3 after July 1, 1974 for a cumulation of less than one year shall
4 be computed pursuant to Subsection A of this section if [~~his~~
5 the member's date of last retirement was on or before June 30,
6 1967 or pursuant to Subsection B of this section if [~~his~~] the
7 member's date of last retirement was on or after July 1, 1967
8 but not later than June 30, 1971 or pursuant to Subsection C of
9 this section if [~~his~~] the member's date of last retirement was
10 on or after July 1, 1971 but not later than June 30, 1974.

11 E. Retirement benefits for a member age sixty or
12 over, retired pursuant to the Educational Retirement Act on or
13 after July 1, 1974 but not later than June 30, 1987, shall be
14 paid monthly and shall be one-twelfth of a sum equal to:

15 (1) one and one-half percent of the member's
16 average annual salary multiplied by the number of years of
17 service credit for:

18 (a) prior employment; and
19 (b) allowed service credit for service
20 performed prior to July 1, 1957, except United States military
21 service credit purchased pursuant to Paragraph (3) of
22 Subsection A of Section 22-11-34 NMSA 1978; plus

23 (2) two percent of the member's average annual
24 salary multiplied by the number of years of service credit for:

25 (a) contributory employment;

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1 (b) allowed service credit for service
2 performed after July 1, 1957; and

3 (c) United States military service
4 credit for service performed prior to July 1, 1957 and
5 purchased pursuant to Paragraph (3) of Subsection A of Section
6 22-11-34 NMSA 1978.

7 F. Retirement benefits for a member age sixty or
8 over, retired pursuant to the Educational Retirement Act on or
9 after July 1, 1987 but not later than June 30, 1991, shall be
10 paid monthly and shall be one-twelfth of a sum equal to two and
11 fifteen hundredths percent of the member's average annual
12 salary multiplied by the number of years of the member's total
13 service credit; provided that this subsection shall not apply
14 to any member who was retired in any of the four quarters
15 ending on June 30, 1987 without having accumulated not less
16 than 1.0 years earned service credit after June 30, 1987.

17 G. Retirement benefits for a member age sixty or
18 over, retired pursuant to [~~the Educational Retirement Act~~]
19 Section 22-11-23 NMSA 1978 on or after July 1, 1991, shall be
20 paid monthly and shall be one-twelfth of a sum equal to two and
21 thirty-five hundredths percent of the member's average annual
22 salary multiplied by the number of years of the member's total
23 service credit; provided that this subsection shall not apply
24 to any member who was retired in any of the four consecutive
25 quarters ending on June 30, 1991 without having accumulated at
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1 least one year earned service credit beginning on or after July
2 1, 1991.

3 H. Retirement benefits for a member, retired
4 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid monthly
5 and shall be one-twelfth of a sum equal to two and thirty-five
6 hundredths percent of the member's average annual salary
7 multiplied by the number of years of the member's total service
8 credit; provided that the benefit for a member retiring
9 pursuant to Subsection C of Section 22-11-23.1 NMSA 1978 shall
10 be reduced by:

11 (1) six-tenths of one percent for each one-
12 fourth, or portion thereof, year that retirement occurs prior
13 to the member's sixty-fifth birthday but after the sixtieth
14 birthday; and

15 (2) one and eight-tenths percent for each one-
16 fourth, or portion thereof, year that retirement occurs prior
17 to the member's sixtieth birthday.

18 ~~[H.]~~ I. A member's average annual salary, pursuant
19 to this section, shall be computed on the basis of the last
20 five years for which contribution was made or upon the basis of
21 any consecutive five years for which contribution was made by
22 the member, whichever is higher; provided, however:

23 (1) if the salary paid in any year beginning
24 on or after July 1, 2009 exceeds that of the previous year by
25 more than fifteen percent:

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1 (a) the amount in excess of fifteen
2 percent shall be excluded in the computation of average annual
3 salary; and

4 (b) the salary, as adjusted to exclude
5 any increase of the fifteen percent limitation, shall be used
6 to determine if the salary paid in the subsequent year exceeds
7 the fifteen percent limitation; and

8 (2) lump-sum payments made after July 1, 2009
9 of accrued sick leave or annual leave shall be excluded from
10 the calculation of salary.

11 J. Unless otherwise required by the provisions of
12 the Internal Revenue Code of 1986, members shall begin
13 receiving retirement benefits by age seventy and six months, or
14 upon termination of employment, whichever occurs later."

15 Section 25. Section 22-11-34 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 157, as amended) is amended to read:

17 "22-11-34. ALLOWED SERVICE CREDIT.--

18 A. A member shall be certified to have acquired
19 allowed service credit pursuant to the Internal Revenue Code of
20 1986 for those periods of time when [~~he~~] the member was:

21 (1) employed prior to July 1, 1967 in a
22 federal educational program within New Mexico, including United
23 States Indian schools and civilian conservation corps camps.
24 This service credit shall be allowed without contribution;

25 (2) engaged in military service that

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1 interrupted [~~his~~] the member's employment in New Mexico if [~~he~~]
2 the member returned to [~~his~~] employment within eighteen months
3 following honorable discharge. This service credit shall be
4 allowed without contribution;

5 (3) engaged in United States military service
6 or the commissioned corps of the public health service from
7 which [~~he~~] the member was honorably discharged if [~~he~~] the
8 member contributes to the fund a sum equal to ten and one-half
9 percent of [~~his~~] the member's average annual salary for that
10 period of time for which [~~he~~] the member has acquired earned
11 service credit pursuant to the Educational Retirement Act and
12 subject to the federal Uniformed Services Employment and
13 Reemployment Rights Act of 1994 for each year of service credit
14 [~~he~~] the member desires to purchase. Average annual salary
15 shall be determined in accordance with rules promulgated by the
16 board but shall always be based on actual salaries earned by
17 the member where the actual salaries can be ascertained by the
18 board. The employer's contributions for service credit shall
19 not be paid by the employer. The purchase of service credit
20 provided in this section shall be carried out by the member
21 within three years after the date of the member's employment
22 following service; or

23 (4) employed:

24 (a) in a public school or public
25 institution of higher learning in another state, territory or

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1 possession of the United States;

2 (b) in a United States military
3 dependents' school operated by a branch of the armed forces of
4 the United States;

5 (c) as provided in Paragraph (1) of this
6 subsection after July 1, 1967; or

7 (d) in a private school or institution
8 of higher learning in New Mexico whose education program is
9 accredited or approved by the [~~state board~~] department at the
10 time of employment.

11 B. Effective July 1, 2001, the member or employer
12 under Paragraph (4) of Subsection A of this section shall
13 contribute to the fund for each year of allowed service credit
14 desired an amount equal to the actuarial value of the service
15 purchased as defined by the board. Payment pursuant to
16 Paragraph (4) of Subsection A of this section may be made in
17 installments, at the discretion of the board, over a period not
18 to exceed one year and, if the sum paid does not equal the
19 amount required for any full year of allowed service credit,
20 the member shall acquire allowed service credit for that period
21 of time that is proportionate to the payment made. Half credit
22 may be allowed without contribution for not more than ten years
23 of the educational service described by Subparagraph (a) of
24 Paragraph (4) of Subsection A of this section if that service
25 was prior to June 13, 1953 and if the member was employed in

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1 New Mexico prior to June 13, 1953 in a position covered by the
2 Educational Retirement Act or a law repealed by that act. No
3 allowed service credit shall be purchased pursuant to Paragraph
4 (4) of Subsection A of this section unless the member is
5 currently employed by a local administrative unit.

6 C. No member shall be certified to have acquired
7 allowed service credit:

8 (1) under any single paragraph or the
9 combination of only Paragraphs (1) and (4) or only Paragraphs
10 (2) and (3) of Subsection A of this section in excess of five
11 years; ~~[or]~~

12 (2) in excess of ten years for any other
13 combination of Paragraphs (1) through (4) of Subsection A of
14 this section; or

15 (3) unless the member makes a contribution to
16 the retiree health care fund pursuant to Subsection C of
17 Section 10-7C-15 NMSA 1978.

18 D. The provisions of this section are made
19 applicable to the services described prior to as well as after
20 the effective date of the Educational Retirement Act."

21 Section 26. REPEAL.--

22 A. Sections 10-11-26.4, 10-11-30, 10-11-38.4,
23 10-11-47, 10-11-53, 10-11-55.4, 10-11-55.10, 10-11-59,
24 10-11-65, 10-11-71, 10-11-77, 10-11-83, 10-11-89, 10-11-95,
25 10-11-101, 10-11-107, 10-11-113 and 10-11-115.4 NMSA 1978

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1 (being Laws 1994, Chapter 128, Section 5, Laws 1987, Chapter
2 253, Section 30, Laws 1994, Chapter 128, Section 12, Laws 1987,
3 Chapter 253, Sections 47 and 53, Laws 1993, Chapter 58, Section
4 4, Laws 1998, Chapter 106, Section 4, Laws 1987, Chapter 253,
5 Sections 59, 65, 71, 77, 83, 89, 95, 101, 107 and 113 and Laws
6 2003, Chapter 268, Section 5, as amended) are repealed.

7 B. Laws 2004, Chapter 2, Section 1 is repealed.

8 Section 27. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2009.

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